

MAR 27 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA LETICIA ALCALA VEGA; et
al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-77201

Agency Nos. A76-728-693
A76-728-694
A76-728-695

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 18, 2008**

Before: CANBY, T.G. NELSON, and BEA, Circuit Judges.

Maria Leticia Alcala Vega, and her children Rosalva Alcala Vega and Juan
Jesus Alcala Vega, natives and citizens of Mexico, petition for review of the
Board of Immigration Appeals' ("BIA") order summarily affirming an

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. See Fed. R. App. P. 34(a)(2).

immigration judge's decision denying their application for cancellation of removal. Our jurisdiction is governed by 8 U.S.C. § 1252. We review the agency's continuous physical presence determination for substantial evidence. *Lopez-Alvarado v. Ashcroft*, 381 F.3d 847, 850-51 (9th Cir. 2004). We deny in part and dismiss in part the petition for review.

The record does not compel the conclusion that Vega met her burden of proof to establish continuous physical presence where she failed to provide sufficient supporting documentation or witnesses attesting to her presence prior to 1991. *See Singh-Kaur v. INS*, 183 F.3d 1147, 1150 (9th Cir. 1999) (stating that a contrary result is not compelled where there is "[t]he possibility of drawing two inconsistent conclusions from the evidence") (internal quotation marks and citation omitted).

Vega contends that the agency failed to consider a letter she submitted from Father Figueroa, however, she has not overcome the presumption that the agency did review the record. *See Fernandez v. Gonzales*, 439 F.3d 592, 603 (9th Cir. 2006).

We lack jurisdiction to review Rosalva Alcala Vega's contention that she is entitled to derivative relief because she failed to raise the issue before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (requiring exhaustion of

administrative remedies).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.